HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 15308 of 2007

Date 19-7-2007

Between:
The Manager, Mail Motor Service,
Hyderabad and others.

.....

PETITIONERS
AND

D.Venkateswarlu, Hyderabad.

.....RESPONDENT

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.15308 of 2007

ORDER: (per Smt. T.Meena Kumari,J)

The Department filed the present writ petition seeking for a Writ of Certiorari to call for the records relating to the order passed by the A.P. Administrative Tribunal, Hyderabad in O.A. No. 1106 of 2003, dated 12.9.2006 and to quash the same.

The brief facts of the case are that the respondent herein was appointed as Time Scale Office Assistant with the petitioner-Department. Thereafter, he was posted as Inspector on adhoc basis with effect from 13.7.1994 by fixing the pay of the applicant at Rs. 5500/- in the revised pay scale of Rs. 5,500/- to 9,000/- w.e.f. 1.1.1996. Thereafter, he was promoted under the TBOP Scheme as LSG Clerk in the pay scale of Rs. 4500-7000 with effect from 15.12.1998. The respondent was appointed as Inspector on regular basis on 25.1.2001. While so, an audit objection has been raised that though the respondent did not possess the requisite qualification, he was officiating the post of Inspector and has drawn the scale of pay of Inspector and that the payment of scale of pay of IMM and drawal of increments from time to time by the respondent is irregular. It was also observed that the pay of the respondent would have been fixed under FR 35 and accordingly

advised to recover the pay and allowances that have been granted to the respondent amounting to Rs. 51,937/- for the period from 13.7.1994 to 30.4.2001. The respondent, then, submitted a representation to the Department on 3.8.2001. However, through proceedings dated 18.9.2003, the Department has rejected the case of the respondent and ordered for recovery of Rs. 51,937/-. Assailing the same, the respondent filed O.A. No. 1106 of 2003 before the Tribunal. The Tribunal, by the order impugned in this writ petition, allowed the O.A. and set aside the impugned order dated 18.9.2003. Aggrieved the Department filed the present writ petition.

Sri A. Rajashekar Reddy, learned Asst. Solicitor General appearing on behalf of the Department would submit that the pay of the respondent has been fixed wrongly under FR 22(I)(a) instead of F.R.35. He, therefore, prayed that the writ petition be allowed and the impugned order be set aside.

On the other hand, Sri T.V.V.S. Murthy, learned counsel for the respondent would submit that though he was appointed as Office Assistant, he was asked to work as Inspector on ad hoc basis. He further submitted that subsequently he has acquired the qualification and after acquiring the said qualification, he was promoted as Inspector on regular basis. He, therefore, prayed that the writ petition be dismissed.

There is no dispute about the fact that the respondent was given ad hoc promotion as Inspector consequent upon termination of one Prem Kumar. There is also no dispute about the fact that the respondent continued as such till he was regularly promoted on 25.1.2001. However, the Department issued the proceedings dated 18.9.2003 on the basis of some audit objection holding that the appointment of the respondent on ad hoc basis is irregular since he was not qualified for holding the said post. In view of the fact that

the respondent was continued as Inspector on ad hoc basis till he was given regular promotion as Inspector, the Department cannot deny him the regular pay scale.

The order passed by the Tribunal is perfectly legal and valid and the same cannot be interfered with.

We, therefore, do not find any ground to interfere with the same. The writ petition is accordingly dismissed. No costs.

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(T. MEENA KUMARI,J)

Date: 15th July, 2007

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(G. CHANDRAIAH,J)

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